



Entered on Docket
November 08, 2011

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

LEWIS AND ROCA LLP

Robert M. Charles, Jr. (NV 6593)
John Hinderaker (AZ 018024)
Marvin Ruth (NV 10979)
3993 Howard Hughes Parkway, Ste. 600
Las Vegas, Nevada 89169-5996
Telephone (702) 949-8320
Facsimile (702) 949-8321
Email: rcharles@lrlaw.com
jhinderaker@lrlaw.com
mruth@lrlaw.com

Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

Debtor.

Case No. BK-S-06-10725-LBR

CHAPTER 11

**Order Sustaining Fourth Omnibus
Objection Of USACM Trust To Proofs Of
Claim Based In Part Upon Investment In
The Cabernet Highlands Loan**

Hearing Date: August 30, 2011

Hearing Time: 10:30 a.m.

The Court having considered the "Fourth Omnibus Objection Of USACM Trust To Proofs Of Claim Based In Part Upon Investment in The Cabernet Highlands Loan, [DE 8717] (the "Objection"); the Court having heard the Objection on August 30, 2011; appropriate notice of the Objection having been given; no response to the Objection having been filed; the Court noting on the record that the partial disallowance of the Claims listed

1 on **Exhibit A** does not affect the direct lenders' right to repayment by the borrower or from
2 the collateral securing the Cabernet Highlands Loan; and good cause appearing:

3 **IT IS ORDERED** that:

- 4 1. The Objection [DE 8717] is sustained;
- 5 2. The portion of each Claim that relates to diverted principal is hereby
6 allowed;
- 7 3. After subtracting the diverted principal, as to the remainder of the proof of
8 claim, 20% is hereby allowed and 80% is hereby disallowed to the extent these claims are
9 based upon an investment in the Cabernet Highlands Loan; and
- 10 4. This order pertains only to the Cabernet Highland Loan and not any other
11 claims of the Direct Lenders.
- 12

13 PREPARED AND RESPECTFULLY SUBMITTED BY:

14 **LEWIS AND ROCA LLP**

15
16 By /s/ John Hinderaker (AZ #018024)

17 Robert M. Charles, Jr.

18 John Hinderaker (*pro hac vice*)

19 3993 Howard Hughes Parkway, Ste. 600

20 Las Vegas, Nevada 89169-5996

Telephone: (702) 949-8320

Facsimile: (702) 949-8321

21 *Attorneys for USACM Liquidating Trust*

22

23

24

25

26

LOCAL RULE 9021 CERTIFICATION

In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

_____ This Court has waived the requirement set forth in LR 9021(b)(1).

XXX No party appeared at the hearing or filed an objection to the motion.

_____ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

Counsel appearing: _____

_____ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order

U.S. Trustee: <u>Augie Landis</u>	
<input type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input checked="" type="checkbox"/> waived the right to review the order and/or	<input type="checkbox"/> failed to respond to the document
Other Party: _____	
<input type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input type="checkbox"/> waived the right to review the order and/or	<input type="checkbox"/> failed to respond to the document

Submitted by:
LEWIS AND ROCA LLP

By: /s/ John Hinderaker. (AZ #018024)
Attorneys for USACM Liquidating Trust

#

USACM Trust Cabernet Highlands, LLC Multiple Loan Claims

Claim	Date Claim Filed	Name	Address	Total Claim Amount Related to Cabernet Highlands, LLC Loan	Unremitted Principal to be Allowed as Claim Relating to the Cabernet Highlands, LLC	Approximate Amount Related to an Investment In the Cabernet Highlands, LLC Loan	Amount Disallowed (80%)	Amount Allowed (20%)
10725-00317	10/4/2006	Pedro L & Carol A Barroso Trust Dtd 11/29/90	Pedro Luis & Carol Ann Barroso Ttee 3231 Cambridgeshire St Las Vegas, NV 89146-6223	25,000.00	-	25,000.00	20,000.00	5,000.00
10725-00318	10/4/2006	Pedro L & Carol A Barroso Trust Dtd 11/29/90	Pedro Luis & Carol Ann Barroso Ttee 3231 Cambridgeshire St Las Vegas, NV 89146-6223	25,000.00	-	25,000.00	20,000.00	5,000.00
10725-00319	10/4/2006	Pedro L & Carol A Barroso Trust Dtd 11/29/90	Pedro Luis & Carol Ann Barroso Ttee 3231 Cambridgeshire St Las Vegas, NV 89146-6223	25,000.00	-	25,000.00	20,000.00	5,000.00
10725-02090	1/11/2007	Robert William Ulm IRA	Pensco Trust Company Custodian 414 Morning Glory Rd St Marys, GA 31558	25,000.00	5,769.23	19,230.77	15,384.62	3,846.15
10725-02218	1/12/2007	Sanchez Living Trust Dtd 10/13/03	Randy M & Sharon Sanchez Ttees 5713 N White Sands Rd Reno, NV 89511	50,000.00	11,538.46	38,461.54	30,769.23	7,692.31
10725-00467	10/6/2006	Sanchez, Barbara M	Po Box 90528 Santa Barbara, CA 93190	76,923.08	-	76,923.08	61,538.46	15,384.62
10725-02217	1/12/2007	Sanchez, Randy IRA	5713 N White Sands Rd Reno, NV 89511	50,000.00	11,538.46	38,461.54	30,769.23	7,692.31
10725-01258	11/10/2006	Topp, Gary	Po Box 3008 Grass Valley, CA 95945	583.33	-	583.33	466.66	116.67
10725-01043	11/6/2006	Ulm, Robert W IRA	Pensco Trust Co Inc FBO 414 Morning Glory Rd St Marys, GA 31558	25,000.00	-	25,000.00	20,000.00	5,000.00
10725-01922	1/10/2007	Westbrook, Connie	14320 Ghost Rider Dr Reno, NV 89511	50,000.00	-	50,000.00	40,000.00	10,000.00
10725-02180	1/12/2007	Wisch, Craig	210 Andrew Ave Naugatuck, CT 06770	40,000.00	9,230.77	30,769.23	24,615.38	6,153.85

EXHIBIT A